

IR *AF*

PATENT
Customer No. 22,852
Attorney Docket No. 05725.0807-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:

Isabelle ROLLAT-CORVOL et al.

Application No.: 09/719,101

Filed: February 23, 2001

For: COSMETIC COMPOSITION
COMPRISING AT LEAST ONE TACKY
POLYMER AND AT LEAST ONE
FIXING POLYMER

)
)
)
)
)
)
)
)
)
)
)

Group Art Unit: 1617

Examiner: WANG, Shengjun

Confirmation No.: 4969

Mail Stop Appeal Brief--Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

**RESPONSE TO NOTIFICATION OF
NON-COMPLIANT APPEAL BRIEF (37 C.F.R. § 41.37)**

In reply to the Notification of Non-Compliant Appeal Brief mailed March 10, 2008, ("Notification"), Appellants respectfully request reconsideration of the Appeal Brief in view of the following Remarks.

REMARKS

By this response, Appellants provide a substitute page 5 attached hereto correcting the error identified by the Examiner.

Specifically, in response to the number two box checked on the Notification, Appellants have amended Section III entitled "Status of Claims" on page 5 to reflect that "[c]laims 1-37 were canceled in the Amendment Under 37 C.F.R. § 1.111 filed August 22, 2001." Further to the statement that "the entire Appeal Brief does not need to be resubmitted," Appellants request that the attached page 5 be matched with the Appeal Brief originally filed February 21, 2008.

Accordingly, Appellants submit that the substitute page corrects the deficiencies identified in the Notification, and thus, the Appeal Brief is now proper. Appellants respectfully request consideration of the Appeal Brief on the merits.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: April 10, 2008

By: 
Mark D. Sweet
Reg. No. 41,469

III. Status Of Claims

Claims 38-106 are pending in this application. Claims 1-37 were canceled in the Amendment Under 37 C.F.R. § 1.111 filed August 22, 2001. Claims 59, 61-68, 70-77, 80-82, and 85-87 stand withdrawn by the Examiner as allegedly being directed to non-elected subject matter. Claims 38-58, 60, 69, 78, 79, 83, 84, and 88-106 are finally rejected. See Final Office Action dated March 28, 2007, Advisory Action dated August 22, 2007, and Notice of Panel Decision from Pre-Appeal Brief Review dated October 29, 2007.

The rejections of claims 38-58, 60, 69, 78, 79, 83, 84, and 88-106 are being appealed.

Specifically, in the Final Office Action, pages 2-7,

- (1) claims 38-58, 60, 69, 78, 79, 83, 84, and 88-106 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-41 of U.S. Patent No. 6,346,234 to Rollat et al. ("the '234 patent") in view of EP 0551 749 to Lee et al. ("Lee");
- (2) claims 38-43, 45-50, 69, 78, 79, 83, 84, and 88-106 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement; and
- (3) claims 38-58, 60, 69, 78, 79, 83, 84, and 88-106 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of WO 95/18191 to Miller et al. ("Miller").